

**SERCARZ & RIOPELLE, LLP**

950 THIRD AVENUE, 31<sup>st</sup> FLOOR  
NEW YORK, NEW YORK 10022  
(212) 586-4900  
FACSIMILE (212) 586-1234  
[www.sercarzandriopelle.com](http://www.sercarzandriopelle.com)

ROLAND G. RIOPELLE  
MAURICE H. SERCARZ\*

\*ADMITTED IN NY & NJ

January 12, 2022

**BY EMAIL & ECF**

The Honorable Mary Kay Vyskocil  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *United States v. Navarro, et al*, 20 CR 160**  
**Seth Fishman – Defendant**

Your Honor:

On behalf of Dr. Fishman, we join in the request by the attorneys for Lisa Giannelli for an adjournment of the trial date based upon the current serious health concern posed by the pandemic.

We also wish to bring to the attention of the Court,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

For these reasons and others,<sup>1</sup> we respectfully submit that the present trial should be adjourned until there has been a substantial reduction in the prevalence of this variant of the virus.

Most respectfully,

/s/Maurice H. Sercarz

cc: AUSA Sarah Mortazavi  
AUSA Andrew Adams  
AUSA Anden Chow  
Louis Fasulo, Esq.  
Alex Huot, Esq.

---

<sup>1</sup> [REDACTED], trial before masked jurors implicates the Sixth Amendment right to effective assistance of counsel by preventing counsel from gauging jurors' facial reactions to questions and arguments counsel may advance and tailoring them accordingly. Insofar as the pandemic will reduce or eliminate the number of unvaccinated individuals available for jury service – and to the extent it disproportionately impacts cognizable groups like the elderly and people of color – forcing a trial under these conditions also may implicate Dr. Fishman's right to a jury drawn from a fair cross-section of the community. The former prospect is especially fraught in a case instigated by the Food and Drug Administration. Finally, significant disruptions may ensue should key trial participants contract an infection [REDACTED] or another participant, creating substantial trial management problems and risking potential mistrial.